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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 2499 /2002

PETITIONER

Smt. Zaheeda Khan W/o. Aslam Khan
D/o. Chhote Khan, aged about 41 years R/o.
Chandani Chowk, Muslim Ganj Raigarh (C.G.)

VERSUS

RESPONDENTS

1. Director
Health Services Chhattisgarh
Raipur (C.G.)
2. Chief Medical & Health Officer,
Main Hospital Raigarh (C.G.)
3. Assistant Medical Officer
City Dispensary Vinoba Nagar
Raigarh (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE
WRIT, ORDERS OR DIRECTIONS

P. R. No. 2609/02
Presented by Shri. K. N. Nanda
dated 16/11/02

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>04.10.2006</u> Shri K.N. Nande, counsel for the petitioner. Shri Sandeep Yadav, Dy. Govt. Advocate for the respondents. Arguments heard. Order dictated as follows: <u>Oral Order</u> (04.10.2006) The petitioner, who is working as a Ladies Health Visitor (LHV) and attached with the city dispensary Vinoba Nagar Raigarh has challenged the validity of order dated 11.6.2002 passed by respondent No.2, by which her attachment has been cancelled and she has been directed to join in Primary Health Center, Kosir. Learned counsel for the petitioner submits that since the year 1989, the petitioner, who is a low paid employee, has been subjected to frequent displacement or transfer causing unnecessary harassment and great hardships to her. It is submitted that the aforesaid actions of the authority of the State are malafide and the last order, which is the impugned order of this petition is required to be set aside by this Court on this count. The brief facts are that the petitioner was appointed on the post of Ladies Health Visitor (LHV) on 8.12.1989 and was given her posting in village- Badebhandar. She worked in Badebhandar upto 30.7.1990 (Annexure-P/4) and on 30.7.1990, she was sent from Badebhandar to Rengal Pali. From Rengal Pali, she was	

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	transferred to Manora for which a representation was made and ultimately vide an order dated 15.7.1993, she was transferred to Village- Chaple in place of Manora by modifying the earlier order. On 27.4.1994, she was again transferred from village- Chaple to Narayanpur (Bastar). Since the contents of the order were suspected, a report was lodged regarding genuineness of the order and ultimately the petitioner remained at village- Chaple. However, on 4.12.1995, she was again transferred from Chaple to Kunkuri. Just after six months, on 29.6.1996, she was again called back from Kunkuri to Chaple. Learned counsel for the petitioner submits that thereafter again on 30.6.1997, the petitioner was sent from Chaple to Kosir. He further submits that again, she was sent from Kosir to City Dispensary, Raigarh on 8.1.2001, where she was working till the impugned order was passed on 11.6.2002. The submission of learned counsel for the petitioner is that the aforesaid instances of transfer/displacement are self explanatory to show that the petitioner is a victim of frequent transfer/displacement and the act of the authority does not appear to be bonafide. So far as the present displacement of the petitioner is concerned, learned counsel also submits that Kosir is at a distance of 70 k.m. from Raigarh and it is difficult for the petitioner to go at Kosir again. It has almost been settled by the Supreme Court that the transfer, which is an incidence of service is not to be interfered	

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	with by the Courts unless it is shown to be clearly arbitrary or visited by malafide or infraction of any prescribed norms of principles governing the transfer. Unless the order of transfer is vitiated by malafide or is made in violation of operative guidelines, the Court cannot interfere with it. In normal course, who should be transferred and posted where is a matter for administrative authority to decide it and unless the order of transfer is shown to be arbitrary or is vitiated by malafide, it would not be possible for court of law to interfere in such administrative action undertaken by the State. In the present case, right from the year 1989 till 2001, the petitioner has been transferred/displaced for about 8 times and in all time it has been said that due to administrative exigency, she has been sent or adjusted at a particular place. It is basic principle of rule of law and good administration that even administrative actions should be just and fair and if the action is lacking in fairness, it shall lead either into arbitrary or malafide action undertaken by the administrative authority. In the present case, 7-8 transfers/displacements of the petitioner, who is very low paid employee is itself evident of the fact that she was victim of frequent transfers/displacements made by the State and the same is a harassment to her. In the facts and circumstances of the case, I deem it proper to quash the impugned order. The petition is allowed. The	

आदेश पत्रक (पूर्वानुबद्ध)

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	impugned order of transfer/displacement dated 11.6.2002 is hereby quashed. In view of the above, M.(W.)P. No. 1574/2002 for grant of interim relief and stay, I.A. No. 7909/2002 for exemption from filing certified copy of impugned order and I.A. No. 7908/2002 for urgent hearing all stand disposed of.	Sd/- Sunil Kumar Sinha Judge